

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

February 6, 2002

5:30 PM

Chairman Gatsas called the meeting to order.

The Clerk called the roll.

Present: Aldermen Gatsas, O'Neil, Forest, Guinta (late), Osborne (late)

Messrs: T. Arnold, T. Soucy, S. Tellier, F. Rusczek

Chairman Gatsas advised that the first purpose of the meeting shall be organizational in nature, and requested the Clerk to provide a brief overview regarding typical issues addressed by the Committee.

Deputy Clerk Normand stated the Committee on Administration generally has jurisdiction over policy regarding licensing, information systems and general administration of the City. That also includes pretty much any referral that comes from the Board of Mayor and Aldermen. If you look at your agenda, you will see that this is kind of a snapshot of typical items that the Committee on Administration will deal with. Anything from taxi driver hearings to cable complaints...most licensing issues and ordinance revisions start in this Committee. Typically this Committee has just about anything under the sun that they will deal with.

Chairman Gatsas asked do any of the new members have any questions for the Deputy City Clerk.

Chairman Gatsas stated we will take up Item 4 at the end of the meeting.

Chairman Gatsas addressed Item 5 of the agenda:

Communication from Alderman Lopez requesting that the Committee look into the possibility of bringing a second cable service provider to the City – Adelphia Cable.

Alderman Osborne stated I saw the communication from Alderman Lopez and if I recall this company is operating now in the City.

Deputy Clerk Normand replied yes. The true intent of Alderman Lopez's communication was to look into why Adelphia Cable was operating in certain areas of the City and not under contract as AT&T is, therefore, they are not paying any fees for what they are doing. I think he had a couple of different locations around Canal Street and possibly Fox Hollow where Adelphia Cable is operating and AT&T Cable cannot yet AT&T is paying us fees to operate. I think he basically wanted to look into why we are not charging them fees.

Chairman Gatsas asked, Mr. Arnold, have you seen this.

Deputy Solicitor Arnold answered basically the City's franchise allows AT&T to use the right-of-way to lay their cable to provide cable service. If you do not use the right-of-ways, the City does not have the ability to charge a franchise fee. I presume that what Alderman Lopez is referring to is there are various locations around town where private cable companies, so to speak, provide service. Usually, I would presume using satellite type of thing so they are not laying cables in the public way and are not subject to a franchise fee.

On motion of Alderman Osborne duly seconded by Alderman O'Neil it was voted to refer this item to the City Solicitor.

Chairman Gatsas asked, Tom, are you going to find out exactly the status of those locations.

Deputy Solicitor Arnold answered yes.

Chairman Gatsas addressed Item 6 of the agenda:

Communication from Alderman Lopez requesting that Pitney Bowes be allowed to conduct a study of the mail system in all City departments for possible cost savings.

Alderman Osborne asked would this cost the City any money at this time.

Chairman Gatsas answered normally what happens is they look at a function as many large companies do they have a centralized mail room that two or three people are in and all they do is mail for the entire company. I would assume that this is probably something that would not cost the City anything, but would allow us to at least take a look at whether there is a savings in having one centralized mail location.

Alderman Forest moved to refer this it to the City Clerk's Office. Alderman O'Neil duly seconded the motion. Chairman Gatsas called for a vote. There being none opposed, the motion carried.

Chairman Gatsas addressed Item 7 of the agenda:

Copy of a communication from Deputy Clerk Matthew Normand to Jerry Reese of AT&T Broadband regarding subscriber complaints.

Deputy Clerk Normand stated what generated this letter initially was people were calling AT&T's customer service and the customer service representatives were telling them that they couldn't fix the problem so they should call the City Clerk's Office. Our office, myself and another individual, what we do is take complaints against AT&T and I work with the corporate office to get those complaints resolved. The intent of that was not to get somebody the gold service or basically do the job of the customer service representatives. In speaking with Jerry Reese, who is in charge at AT&T, he said that this was going to be resolved. I can tell you that as recently as three hours ago we got a call from an elderly individual who had called AT&T customer service and asked to get a senior discount. The customer service representative told this individual to call the City Clerk's Office because they couldn't do that, which obviously is incorrect because that is something that they are required to do under their contract. I can tell you that we probably get 30 to 40 calls a month with complaints against customer service of AT&T and the way they handle their customers and their general avoidance of problems, customers are dissatisfied, and problems that they have called customer service about over and over that haven't been resolved and then they call us. It has really become a huge burden on our office and the two individuals who are required to deal with this.

Chairman Gatsas asked, Tom, according to the contract do we have any recourse or can we get Jerry Reese to come in and address some of these questions.

Deputy Solicitor Arnold replied you certainly can ask him to appear. The contract does have specific provisions on customer service.

Alderman O'Neil moved to have the Solicitor contact Mr. Reese and ask him to appear before the Committee. Alderman Forest duly seconded the motion.

Alderman Forest stated I know that on AT&T's bill on the back it says if you have a problem that you can't resolve call this number and it gives the City Clerk's telephone number.

Chairman Gatsas asked why would that be on there. Tom, why don't you pull out those excerpts from the contract and take a bill and make sure that if it says that...maybe AT&T would like the City Clerk's Office to be its customer service department and we could charge an appropriate fee for that.

Deputy Solicitor Arnold asked for a copy of a bill.

Alderman Forest replied I can get a copy of my bill for you.

Chairman Gatsas asked, Tom, can you get us the information before the meeting so that we have a few days to look at it.

Deputy Solicitor Arnold answered yes.

Chairman Gatsas called for a vote on the motion. There being none opposed, the motion carried.

Chairman Gatsas addressed Item 8 of the agenda:

Communication from Ron Ludwig, Parks, Recreation & Cemetery Director, requesting waiver of a fair license fee for the City's Independence Day Celebration at Arms Park to be held on Wednesday, July 3, 2002 with a rain date of Friday, July 5, 2002.

On motion of Alderman O'Neil, duly seconded by Alderman Osborne it was voted to approve this request.

Chairman Gatsas addressed Item 9 of the agenda:

Communication from Fred Ruscsek, Public Health Director, regarding a proposed solid waste and littering ordinance.

Mr. Timothy Soucy stated based on the Committee's request, the Health Department, the City Clerk's Office, City Solicitor and the Highway Department got together and looked at our existing trash ordinance and how we could strengthen it. What we came up with is taking the existing Chapter 50, which is Solid Waste, which is enforced by the Highway Department, the existing Chapter 130.50, which is Littering, which is enforced by the Health Department and combining them into a new proposed Littering and Solid Waste ordinance that would give the Health Department and Highway Department easier capability of enforcing the ordinance. We learned through the process that the Highway Department does not have statutory authority to issue citations. By making them

designees of the Health Authority, they would now have the authority to issue citations or legal authority.

Alderman O'Neil stated one of the discussions we had was also including some other departments. What happened there and why weren't they included?

Mr. Soucy replied we had the Housing Code and Building Department as part of the discussions as well. Because of the revisions they are going through in the current Housing Code to get this streamlined in a faster manner, we decided to take this option and get Health and Highway together right away. In doing so, we sort of strengthen our enforcement ability and the Health Officer or their designees can really be expanded to include other departments if necessary.

Alderman O'Neil asked does that require any further changes or can that just be done with an action of the Health Officer.

Mr. Soucy answered it would not require any further changes. It is written into the proposed ordinance.

Alderman O'Neil stated I would appreciate it if you would continue to look and one of my thoughts was that if the Fire Department spotted something or the Police Department, they should...too many times we get caught up in well I have to call this department or that department so I would appreciate it if you could take a look at that and report back to the Committee at some point.

Chairman Gatsas asked where did the fines come from.

Mr. Soucy answered those are ones that were just revised at the end of last year. It is a \$500 fine for the ones that are enforced by the Police Department. Those are the fines that were recently restructured in an effort to get greater compliance so that property owners aren't writing off a \$25 citation as a matter of doing business.

Chairman Gatsas asked can you just give me an idea, like 91.54, what was that fine prior to the increase. I don't even know what it is. I just picked the number.

Mr. Soucy answered it was an existing Highway Department ordinance, which had to do with garbage not being put out until a day prior to pick up. People were putting their garbage out on Monday and pick-up was on Friday and this gave the Highway Department the authority to issue citations based on that.

Chairman Gatsas asked but how much was that first offense.

Mr. Soucy answered it was \$25.

Chairman Gatsas asked you went from \$25 to \$100.

Mr. Soucy answered yes.

Alderman Osborne asked how long has the \$25 been on the books.

Mr. Soucy answered quite awhile and the problem we were all running into was that large property owners would take a \$25 citation as a matter of doing business and not address the problem, which is essentially why Health, Highway and Building got together and came back to Administration with the proposal to increase the fines.

Chairman Gatsas asked so there is no differentiation between commercial and residential.

Mr. Soucy answered no.

Alderman Osborne asked how long is a long time.

Mr. Soucy answered since the tagging ordinance went into effect; I would say in the 80's.

Alderman Forest stated, Tim, I don't notice anything here...I see some court appearances but like on the one you just discussed there is a first, second and third offense but there is nothing about non-payment of fines.

Mr. Soucy replied it is written into citation ordinance itself, which is a separate ordinance that says if you don't pay within seven days they double and if you don't pay within a certain amount of time then the parties go to district court.

Alderman O'Neil stated, Tim, certainly we are talking about the absentee landlords in certain cases regarding these ordinance changes. In a case of a single family homeowner in any section of the City, you folks or Highway would explain to them...there wouldn't be a fine necessarily issued right away?

Mr. Soucy replied the fine is the last matter of recourse. We usually begin with a standard form...well it usually begins with a phone call. If that doesn't resolve the issue then a standard form letter saying please help us improve the conditions of the City and if that doesn't work we go to a second notice, which is either sent certified or hand delivered. It is strictly an order saying pay it within a certain period of time in which case if that fails then we issue a citation. There is plenty of forewarning.

Alderman O'Neil moved to approve the ordinance and refer it to the Committee on Bills on Second Reading for technical review. Alderman Osborne duly seconded the motion. Chairman Gatsas called for a vote on the motion. There being none opposed, the motion carried.

Chairman Gatsas addressed Item 10 of the agenda:

Suggestion to send letters to non-profit organizations asking them for payment in lieu of taxes made by Alderman Pariseau at the 11/20/01 BMA meeting and referred to the Committee on Administration.

Chairman Gatsas stated Alderman Pariseau for the two years that I was with him had always sought to add more revenue to the City's coffers and he thought that one way of doing that was through the non-profits because they don't pay full assessment, they pay in lieu of. He thought that it may be an opportunity for the City to raise some more revenue.

Mr. Steve Tellier stated a list was submitted to the previous Board for the tax-exempt agencies. Upon review you will note that the vast majority of them are religious entities in Manchester. The remaining non-religious entities, a significant amount of them are on the recipient list for City grants to operate so what you would be doing is taking from Peter to pay Paul. Additionally, there is a provision for any entity to enter into a voluntary payment in lieu of taxes. There is a statutory provision to allow that but most of them are all scraping to collect funds and were the City to ask them, they would be looking to get more money elsewhere to pay the City. There is legislation yearly that is submitted along the lines of what former Aldermen Pariseau was asking for but nothing has ever passed the Legislature.

Alderman Osborne asked how much money would this involve if it did pass.

Mr. Tellier answered if it did pass it would be a substantial amount. I could calculate that for you in the future if you would like. It would be voluntary and it would have to come from the Board of Mayor and Aldermen as a request to the tax-exempt agencies out there. Again, the vast majority of them are religious in nature.

Chairman Gatsas asked can you tell this Committee what the difference is from not for profit and non-profit. Is there a difference?

Mr. Tellier answered I am not an attorney. The tax exempt status, which is a term that is statutorily used by our office...those entities are usually 5013C with the

Federal government and they file a Board of Tax and Land Appeal Form, there are two forms, the A-9 and A-12. One defines their mission and the other one outlines their budget as a non-profit where any income is rolled into the operating budget. They have to file that yearly with our office and we continue to review that on a yearly basis.

Chairman Gatsas asked so we may find hospitals that are I guess not for profit.

Mr. Tellier answered we have three hospitals here in the City. Dartmouth Medical Hitchcock Clinic does pay taxes. The other two hospitals, Elliot and CMC, are tax exempt and they submit vast documents to our office every year. They work along with the Health Officer of the City of Manchester...statutorily they have to to define what is necessary for their contributory directives to the City.

Chairman Gatsas asked what about any subsidiaries that they may have.

Mr. Tellier answered those that are for profit and pay taxes...we have doctor's parks and doctor's offices and they are itemized as taxable and they are separated. It is the not for profit entity that is tax exempt, which would be the hospital itself and the pertinent functions that come with it. However, if they have doctor's parks or labs that are for profit and not in that directive, they pay taxes.

Chairman Gatsas stated seeing that we have three new members here, maybe the suggestion would be to get them all copies of that list and we can leave this item on the table.

On motion of Alderman O'Neil duly seconded by Alderman Forest, it was voted to table this item pending information from the Assessor.

Chairman Gatsas addressed Item 11 of the agenda:

Communication from AT&T Broadband advising of the October 4, 2001
Federal Communications Commission decision regarding franchise fees.

Deputy Solicitor Arnold stated as the Committee is aware I did send around a communication that basically stated the FCC decision that AT&T is relying on. I have also been in contact with Peter Epstein, our attorney in this matter and discussed the matter with him. He has given me his legal opinion of AT&T's action as submitted to the Committee. I would note that the particular FCC decision that is referred to in the City of Pasadena is presently under appeal and the possibility still exists that the courts may reverse the FCC's decision. If that were the case, since AT&T has started to bill the franchise fee for non-subscriber revenue to the subscribers, they would have to refund that. At this point, the

Committee might want to leave this on the table to see how the court action plays out.

Chairman Gatsas stated AT&T has already started charging the 5.23%.

Deputy Solicitor Arnold replied I believe as of February 1...

Chairman Gatsas interjected under who's authority.

Deputy Solicitor Arnold stated what the City of Pasadena case is...

Chairman Gatsas interjected let me just ask a question. There is no reason for the Board if it so desires, not to increase the fee because all that means is money coming directly back to the City. For us to maintain the status quo of revenue they are telling us that we need to increase it by 5.23%?

Deputy Solicitor Arnold replied no. What they are saying is if we want to maintain the status quo as to revenue, we do nothing. If we want to prevent AT&T or have AT&T not add non-subscriber revenues to the subscriber franchise fee they submitted an opt out letter that they requested the City sign and return to them. I would not suggest that at this point.

Chairman Gatsas stated I am having a hard time understand this. Let's assume and let's use round numbers, that at 5% the City was going to realize \$1 million. If we are going to charge that same percentage of whatever comes out to 5% to get to \$1 million wouldn't we actually increase the revenue by .25% so the City would receive \$1 million plus?

Deputy Solicitor Arnold replied I am not sure I understand the question. I think what you may be getting at is right now the City receives an income stream from the 5% franchise fee. If you want that income stream to remain the same, then you do not need to do anything. You are going to get that same 5%. What the City of Pasadena case is is our contract back for many years including the prior contracts defined 5% of gross revenues. Now gross revenues is made up of among other things your subscriber revenues, the cable bill each of us pays, and some non-subscriber revenues such as home shopping sales, advertising revenue, which they were paying 5% on. What they have done is they have taken the 5% non-subscriber revenues from home shopping and advertising and billed it to the subscribers where they did not use to do that. That is why...I think it was actually referred to in this letter, the two franchise fees that are listed on the bill starting on February 1st or at least that is when they said they were going to start. That is what they contend the City of Pasadena case allows and what that has resulted in

as I said is apparently the advertisers and home shopping people don't pay any franchise fee and the subscribers get to pick up that share.

Chairman Gatsas responded let me try this a different way. Right now on a \$40 bill a month the franchise fee is 5%, which is \$2. If we increase that to 5.23%, it is somewhere around \$2.09 a month. Nothing has changed in that \$40 fee so why would we as a City want to increase the fee to the users by .23% if it only means additional revenue to the City and we weren't anticipating that in the beginning?

Deputy Solicitor Arnold replied first of all you were anticipating it because the revenues not only included the subscriber revenues but the non-subscriber revenues and that has been for well over 10 years now. You would be reducing what the City presently gets. The reason that the subscriber fee ends up being more than 5% is that they are adding in the non-subscriber revenues. If you want to keep it at 5%, the Board would send the opt out letter to AT&T and they wouldn't collect that franchise fee and essentially the subscribers will only end up paying 5%. As I said the City of Pasadena case on which AT&T based their action is presently under appeal so I wouldn't recommend that course of action.

Chairman Gatsas stated well we could probably send a directive that would not opt out but telling them not to charge the fee.

Deputy Solicitor Arnold replied as you know included in your materials was a draft letter to AT&T that basically says that we disagree with their interpretation and asking them not to charge that fee but that does not reduce the revenue stream and AT&T at least under their interpretation can continue to do what they do and say they think that their interpretation of the law is correct and they are not going to discontinue billing the subscribers for the non-subscriber revenues.

Alderman Osborne asked whose idea was this, the FCC.

Deputy Solicitor Arnold answered it is a Federal Communications Commission decision. It was an appeal, I believe, by the City of Pasadena for an administrative action that is not a court action but has the same effect. It is an interpretation of the existing telecommunications law by the FCC.

Chairman Gatsas replied so what you are saying is they are just arbitrarily tacking it on without any...

Deputy Solicitor Arnold interjected I am not sure I would use the term arbitrarily, but yes, they are tacking the non-subscriber revenues on to the subscribers citing as justification the City of Pasadena.

Chairman Gatsas stated I think we need to take some sort of position saying at least that we as a City have not taken a position on the 5.23%. I am not talking about the opt out but I think we should send them a letter that says that we don't think the subscriber should be charged the 5.23%.

Deputy Solicitor Arnold replied if the Committee desires I could certainly work with our counsel to put together a letter that the Committee would be willing to send out.

Chairman Gatsas stated we were sent something that showed the last quarterly payment, I believe.

Alderman Osborne asked didn't that amount to about nine cents or something.

Chairman Gatsas answered yes it was nine cents. Do you have a copy of that Tom?

Deputy Solicitor Arnold replied yes.

Chairman Gatsas stated the quarterly payment that shows for less bad debt expense – do you see it, assuming that obviously this is not something that we get paid on what happens if those funds are recovered at a later date. They don't show up anywhere?

Deputy Solicitor Arnold replied I would have to ask Finance that question. I am not sure myself. I would presume that it would show up some place.

Chairman Gatsas asked well how would we know that they are collecting bad debt.

Deputy Solicitor Arnold answered we have to rely on their report as we do for the franchise fee. I can certainly pose that question to them and get back to the Committee with an answer.

On motion of Alderman Forest, duly seconded by Alderman Osborne, it was voted to send AT&T Broadband a letter stating that the City doesn't think they should be charging the 5.23% but we aren't opting out.

Chairman Gatsas addressed item 12 of the agenda:

Communication from AT&T Broadband advising of a definitive agreement to combine AT&T Broadband with Comcast.

Alderman O'Neil asked we can't do much about it can we.

Chairman Gatsas answered I think we have a couple of venues here. One is that they had to complete some work that we had negotiated in the last contract and I think that is part of the stipulation – that they must complete all of their work if they were in an agreement to do something with another company if I remember correctly when we were negotiating.

Deputy Solicitor Arnold replied yes when we were negotiating, the City's I-Net that was negotiated in the prior franchise renewal hadn't been completed in that the fiber optic loop had been constructed but certainly drops into that loop had not been constructed. I looked into how many of those drops as they are called have not been put in at this point and found out that they have all been installed with the exception of a drop at JFK Coliseum. They had come to the City and wanted to put that in not this winter but last winter and at that time my understanding is the Highway Department suggested that they wait until spring for construction reasons and apparently it was never done in the spring. If the Committee would like, I could certainly send them a letter demanding that that drop be installed at this point in time.

Chairman Gatsas asked so all of the drops that we had questioned for the schools...

Deputy Solicitor Arnold interjected my understanding is they have been installed.

Chairman Gatsas asked can you check with the schools directly. Is AT&T telling you that they have been installed?

Deputy Solicitor Arnold answered no. I have been dealing with Information Systems who has been overseeing the building installations.

Chairman Gatsas asked so those are all in.

Deputy Solicitor Arnold answered yes.

Chairman Gatsas asked everything else in their agreement that we renegotiated with them...I guess the one problem I have is obviously the customer service end and maybe we can leave this one on the table until Jerry Reese comes in to talk to us.

Deputy Solicitor Arnold replied at this point it is just a communication so certainly we can do that.

Chairman Gatsas asked how about if we send them a letter referencing the one drop that they need to do because we still need to agree to the contract don't we.

Deputy Solicitor Arnold answered if and when this merger takes place, I think that under our present contract they would need to come to the City for approval of the transfer of the license so yes at some point Board action will be required. I am not sure precisely when that will be. I will send AT&T a letter asking them to install that last drop.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to have the Solicitor send AT&T Broadband a letter requesting that they install an I-Net drop at JFK Coliseum.

Chairman Gatsas addressed Item 13 of the agenda:

Communication from Jerry Reese of AT&T Broadband advising of an upcoming change to their customer's e-mail accounts.

Chairman Gatsas stated I guess from what I understand effective March 15 they are just dropping the e-mail with no advance mailboxing. Is that what I understand?

Deputy Solicitor Arnold replied I only know what I read in the communication attached. What that basically says is that due to I believe a court case they can no longer use the "@mediaone" designation and for that reason are changing it to "attbi.com".

Chairman Gatsas asked is that within the jurisdiction of the contract.

Deputy Solicitor Arnold answered yes I believe it is. The contract basically doesn't have provisions dealing with e-mail. It has minor revisions dealing with Internet service, but yes I believe that it is not a violation of the contract to do that change.

Chairman Gatsas asked if it doesn't have anything to do with the contract then why would they send us a communication relative to it.

Deputy Solicitor Arnold answered I can't speak for AT&T. They send us a lot of stuff in the mail.

On motion of Alderman Osborne duly seconded by Alderman Forest, it was voted to receive and file this item.

Chairman Gatsas addressed Item 14 of the agenda:

Communication from Amy Towler, Event Coordinator, requesting permission to hold an after hours event at Jillian's on Friday, June 7, 2002 from 2 AM until 5 AM for 125 guests.

Chairman Gatsas stated now I believe we had gotten this once before. This is without dancing or what did we do with that ordinance change, Matt? Can you tell me?

Deputy Clerk Normand stated the ordinance change would prohibit this after 2 AM...any entertainment or public dancing. Essentially entertainment was added to the prohibition of 2 AM.

Alderman O'Neil replied so what are they asking for, an ordinance change.

Deputy Clerk Normand responded I think they are just asking for some consideration in allowing them to do that after 2 AM.

Alderman O'Neil asked and we have the authority without changing the ordinance.

Deputy Solicitor Arnold answered my recollection of what happened is that the provisions that would have allowed this Committee to essentially permit that type of action were not active. Similar to what was the dancing ordinance...at that time as you know the ordinance did not allow the Committee to grant an exception. There is language within the hearing provision of the ordinance dealing with restrictions but I don't believe that at this point that would allow the Committee to grant an exemption to the ordinance.

Alderman Osborne asked would the full Board of Mayor and Aldermen be allowed to do this.

Deputy Solicitor Arnold answered I think it would take an ordinance change to do that.

Chairman Gatsas replied we already changed the ordinance once.

Deputy Solicitor Arnold stated there was some debate as I recall about whether there should be a provision allowing the Committee on Administration to grant exemptions and that was not enacted.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to deny this request.

4. Appeal of the denial of taxi driver's license.

Deputy Clerk Normand noted that the individual for the appeal is not present due to a scheduling conflict.

On motion of Alderman O'Neil, duly seconded by Alderman Osborne, it was voted to postpone the appeal.

TABLED ITEMS

15. Communication from Mark Tomaszewski regarding owning and operating a tattoo parlor in Manchester.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to remove this item from the table.

Alderman O'Neil asked, Fred, if I understand your letter it is pretty clear. Either we will enforce it or the State will enforce it, correct?

Mr. Rusczek answered correct. We looked into the other communities that currently have tattoo parlors, the larger communities, and of the five two of them, Seabrook and Salem, got into the licensing of tattoo parlors before there were State regulations to our understanding so they are currently inspecting. Others like Nashua, Portsmouth and Derry, all rely upon the same regulations. Typically through the years when we have regulations that are enforced by the State we try not to duplicate them. For example, we don't inspect Jac Pac Foods because the Feds come in and inspect that. We don't inspect barbershops or hair salons. Our recommendation or our advice would be that should the Aldermen decide to repeal the ordinance that allows only physicians to apply tattoos, that we rely upon the State for the enforcement and licensing and regulation.

Alderman O'Neil asked, Fred, this really isn't your area of expertise but zoning issues with regards to this...we seemed to have focused on the health side and I don't recall having any discussion about is it allowed now and where it is allowed.

Mr. Rusczek replied I wouldn't be able to answer that for Manchester and we didn't ask that question of other communities.

Alderman O'Neil asked might it be an not in an attempt to drag this out but might it make some sense to ask the Building Department to get involved regarding

where they are appropriate with the current zoning regulations. I don't recall having that discussion at all.

Chairman Gatsas replied I don't remember anything in the zoning book that talks about that. Right now we have an ordinance in place that allows it only by physicians?

Mr. Rusczek responded correct.

Chairman Gatsas asked has that been challenged in Massachusetts and defeated.

Mr. Rusczek answered it was challenged and struck down in Massachusetts but we have a different State law. In fact, our State law allows communities to prohibit tattoo parlors. The current ordinance has been on the books much longer than I have been around. It says, "no person not being registered as a qualified physician shall mark the body of any person by means of a tattoo" and that is all there is in the ordinance. I have never seen it in the zoning ordinance.

Alderman O'Neil moved to put this item back on the table and get information from the Building and Planning Departments with regards to zoning regulations. Alderman Forest duly seconded the motion. Chairman Gatsas called for a vote on the motion. There being none opposed, the motion carried.

Alderman Guinta asked what about licensing.

Mr. Rusczek answered the State will license and regulate them. There are currently State laws that require that any tattoo parlor be licensed and pay a fee to the State.

Alderman Osborne asked what about body piercing.

Mr. Rusczek answered there is legislation before the State now that would include body piercing, wherever it is done, but as I understand it is part of the tattoo requirements that the State has. It says body piercing and they regulate that as well.

Alderman Osborne asked are they both under one license.

Mr. Rusczek answered yes.

Alderman Osborne asked should they be separate.

Mr. Rusczek answered they are both under one license with the State but if there is a place that does only body piercing as I understand the legislation that is up there right now, they will be regulated as well even if they don't do tattoos.

Alderman Osborne replied I think they should be separate identities. What do you think?

Mr. Rusczek responded I think they can all be regulated under one license. The same sort of equipment would be needed to disinfect and sanitize the instruments used for tattoos as well as body piercing.

Alderman Forest asked how many people in the State are going to go around checking these places. They are stretching them out as it is now.

Mr. Rusczek answered I don't know how many folks the State has.

Alderman Forest replied we are talking about letting the State do it but it might be a little more difficult on their part.

Mr. Rusczek responded the State is going to have to do it anyway. As the Aldermen pointed out in our last meeting, the State regulations don't change because of local ordinances. They are still going to have to come down and inspect the license.

Chairman Gatsas asked so basically Fred what you are saying is that the "physician only" in the ordinance and maybe Tom you can address this but do we feel that that is a position that the City can stand on or do we have to remove that "physician only".

Deputy Solicitor Arnold answered I have not done extensive research on that.

Chairman Gatsas stated well why don't we include that with the information we are going to get from Planning and Building.

Deputy Solicitor Arnold stated at this point if the City wanted to maintain that restriction we would certainly defend it without question.

Alderman O'Neil asked but we very easily could, if there is an agreement, have the State enforce it and drop our ordinance, correct.

Mr. Rusczek answered correct.

Deputy Solicitor Arnold stated if you repeal the ordinance that would be the effect, yes.

Alderman Osborne asked licensing again would be the State's and not the City's.

Mr. Rusczek answered right.

Alderman O'Neil asked whether or not we repeal the ordinance, there will still be State licensing involved.

Mr. Rusczek answered there won't be tattoo parlors in Manchester if the ordinance is not repealed.

Alderman Osborne asked what if it is. The licensing will be done by both the City and State or just the State?

Mr. Rusczek answered just the State. Currently that is what happens with barber shops and hair salons, the State licenses them. Years ago the Health Department would license but what we tried to do through the years is not duplicate the work of other regulatory authorities that have the capability to handle things. We don't inspect places that the Federal government might inspect. We don't inspect medical facilities that are here in Manchester. If the State licenses and has the inspection program and the regulations we have allowed them to do that.

Alderman Osborne asked is there any body piercing in the State now.

Mr. Rusczek answered there is body piercing in the State and body piercing in Manchester, although I couldn't give you the address. Right now the State does not regulate a body-piercing place alone. We are hoping to change that with legislation. If a tattoo parlor and body piercing are combined, the State regulates them, if it is just body piercing they don't.

Alderman Guinta asked who is regulating body piercing then.

Mr. Rusczek answered that will be regulated by the State Department of Health and Human Services as well.

Alderman Guinta asked it will be but currently it is not.

Mr. Rusczek answered currently when it is a stand-alone as I understand it, it is not. We haven't been involved in regulating them and I don't know if Matt found out anything different.

Deputy Clerk Normand replied no. They are not regulated currently.

Alderman Guinta asked they are not regulated at all.

Deputy Clerk Normand answered no.

Chairman Gatsas asked in your opinion, Fred, are body piercing and tattooing at the same level or would you consider them at different levels.

Mr. Rusczek answered I would say they are at different levels. Body piercing could come from anything as simple as pierced earrings all the way down to things like bolts and chains on one's anatomy. The State regulations that will be in place will bring that down to what is reasonable.

Alderman Osborne stated tattooing would only go through a certain amount of layers of skin where piercing would go who knows where.

Chairman Gatsas asked so you are telling me that right now in the City of Manchester we have no ordinance against body piercing.

Mr. Rusczek answered there is no restriction on body piercing, no.

Chairman Gatsas asked but you consider that a much bigger hazard than tattooing.

Mr. Rusczek answered I would consider it a larger hazard.

Alderman Osborne stated that is why it should be licensed separately.

Chairman Gatsas replied we will leave that at the State level. So this item is back on the table and we will be expecting information from Planning, Building and the Solicitor's Office. The House Bill is 1354.

16. Communication from Ronald Ludwig, Director of Parks & Recreation, in response to a complaint about a concert at Veteran's Park that was referred to the City Clerk, City Solicitor, Police Chief and Parks & Recreation Director for report back to the Committee.

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to remove this item from the table.

Deputy Clerk Normand stated we all met and agreed that it should be...the issue was a noise complaint about a concert at Veteran's Park this past summer. The

departments met and agreed that this should be placed in an entertainment policy and look at maybe restricting decibel levels like we did at the Godsmack concert. I have done a lot of research on the entertainment policy. I haven't done a draft yet, but I do have the research.

Alderman O'Neil asked is that something that you will be bringing before the Committee at some point.

Chairman Gatsas stated let's get it done before the snow is off the ground so we don't run into the same problem again. Do we want to receive and file this?

On motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to receive and file this communication.

Chairman Gatsas asked in reference to this, do I understand that if somebody is having something at Veteran's Park or any park in the City that we passed an ordinance that said that somebody from the Park Department must be there.

Deputy Clerk Normand answered Parks has jurisdiction over the parks. If they see that a certain event going in there may be a problem on wear and tear on the park, I suppose they could say we want somebody to be there but there is nothing that would specifically require them to be there that I am aware of.

Chairman Gatsas asked do you know of anything, Tom.

Deputy Solicitor Arnold answered I know that Parks has their general regulations that they follow under certain circumstances.

Chairman Gatsas asked do we have to approve it here. If somebody...obviously I got a phone call from somebody about Derryfield Park who has had an event there for the past four or five years and now they have gone for an application and they said they need someone from Parks there at \$30/hour.

Deputy Clerk Normand replied I know that there is somebody over at Parks and Recreation who deals with people planning events and there might have been some miscommunication. They may have changed their policy. I can find out for you.

Alderman O'Neil stated I know, for instance, the parade committee because they need somebody to open up the portable bandstand and then get power from the comfort station they pay Parks and Recreation for that but I don't know if people just using the stage that is set-up and don't have any requirements if they necessarily need Parks and Recreation there.

Chairman Gatsas stated my concern is obviously doing that and if it is \$30 for an hours worth of work that is okay but if the event is going on for eight hours and they are looking for a non-profit to pay \$30/hour for somebody to stand there I don't know if that is a user friendly situation in the City. If you can find out what that is all about, Matt, that would be great.

17. Copies of communications addressed to Alderman Levasseur from Attorney Ross, Mitchell Sawaya and Raymond Dugdale relative to parking problems, noise, litter and other nuisances by patrons of the Strange Brew Tavern located at 88 Market Street.

On motion of Alderman O'Neil, duly seconded by Alderman Guinta it was voted to remove this item from the table.

Alderman Guinta asked is this in reference to the issue that happened about six months ago where the two parties were supposed to sit and chat and we don't have any update from either party.

Chairman Gatsas answered this has been since August of last year. Let's get an answer so we can get it off the table.

Alderman O'Neil asked should we have representatives from both sides come in.

Chairman Gatsas asked Matt to find out from the Police Department where this is at and if we need to go further we can bring in all parties but if not, let them come in alone.

On motion of Alderman O'Neil, duly seconded by Alderman Guinta, it was voted to place this item back on the table.

There being no further business, on motion of Alderman O'Neil, duly seconded by Alderman Forest, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee